

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA

CASE NO. 1:09CR00095

VS.

**(DLOTT, C.J.)
(HOGAN, M.J.)**

**DAVID BAKER,
DEFENDANT**

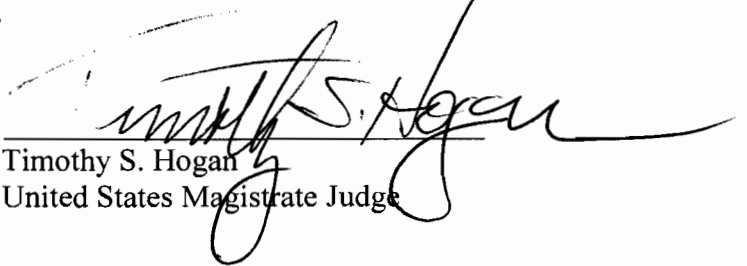
REPORT AND RECOMMENDATION

On July 29, 2009, the Defendant in this pending criminal case was arraigned before the undersigned and entered NOT GUILTY pleas to the single count stated therein. On August 4, 2009, Defendant was referred to the Federal Bureau of Prisons (BOP) for an evaluation concerning Defendant's competence to stand trial. The BOP was assigned to the Metropolitan Correctional Center in Chicago, Illinois. Defendant arrived at the Chicago institution on August 31, 2009 and was subject to behavioral observations and various mental and personality tests as well as investigations into his personal, legal and medical history for an approximate period of 90 days.

The BOP's peer-reviewed opinion is that Defendant has a "reasonable factual and rational understanding of the issues related to the process of adjudication" and "appeared to possess the capacity to adequately assist his attorney at the present time." The author, Ron Nieberding, Ph.D., also pointed out that "significant personality issues and depressive symptoms" had a "potential impact" upon the behavior which led to Defendant's arrest.

Therefore, it is the recommendation of this magistrate judge that Defendant be found competent to stand trial and that in the event of his conviction, the Court consider his psychiatric deficits when rendering a fair and just sentence.

December 16, 2009


Timothy S. Hogan
United States Magistrate Judge

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

United States of America,
Plaintiff

Case No. 1:09cr0095

vs.

David Baker,
Defendant

(Dlott, J.; Hogan, M.J.)

**NOTICE TO THE PARTIES REGARDING THE FILING OF OBJECTIONS TO THIS
R&R**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **FOURTEEN (14) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **FOURTEEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).